

**COMBINED DECLARATION AND POWER OF ATTORNEY
FOR UTILITY PATENT APPLICATION**

As a below-named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

SYSTEM AND METHOD FOR DELIVERING CUSTOMIZED AUDIO DATA

the specification of which

_____ is attached hereto.

 X was filed on 28 September 1999 as Application No. 09/407,751
and was amended on _____.
(If Applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a) which states in relevant part: "Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section....The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98."

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate as indicated below and have also identified below any foreign application for patent or inventor's certificate on this invention having a filing date before that of the application on which priority is claimed:

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Prior Foreign Application(s)

Priority Claimed

_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	_____ Yes	_____ No
_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	_____ Yes	_____ No

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s), and under §119(e) of any United States provisional application(s), listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulation, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

_____ (Application Serial No.)	_____ (Filing Date)	_____ (Patented, Pending, Abandoned)
_____ (Application Serial No.)	_____ (Filing Date)	_____ (Patented, Pending, Abandoned)

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith, and to file, prosecute and to transact all business in connection with international applications directed to said invention:

Mark A. Haynes	30,846
Ernest J. Beffel, Jr.	43,489

Address all correspondence to:

Mark A. Haynes
Haynes & Beffel LLP
P.O. Box 366
Half Moon Bay, CA 94019

Direct all telephone calls to Mark A. Haynes at (650) 712-0340.

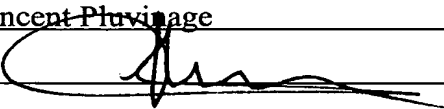
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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Title 18, United States Code, §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first joint
inventor, if any:

Vincent Pluvierge

Inventor's signature:



Date:

February 11, 2000

Citizenship:

Belgium

Residence:

49 Spencer Lane

Atherton, CA 94027

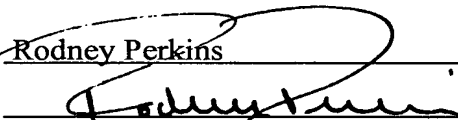
Post Office Address:

same as above

Full name of second joint
inventor, if any:

Rodney Perkins

Inventor's signature:



Date:

February 11, 2000

Citizenship:

U.S.A.

Residence:

235 Mountain Wood Lane

Woodside, CA 94062

Post Office Address:

same as above

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

IN RE PATENT APPLICATION OF)	
)	
Vincent Pluvinage and Rodney Perkins)	Examiner: Not yet assigned
)	
Application No.: 09/407,751)	Group Art Unit: 2747
)	
Filing Date: 28 September 1999)	
)	
Title: System and Method for Delivering)	
Customized Audio Data)	
_____)	

POWER OF ATTORNEY BY ASSIGNEE
TO EXCLUSION OF INVENTOR UNDER 37 C.F.R. § 3.71
WITH REVOCATION OF PRIOR POWERS

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

The undersigned ASSIGNEE of the entire interest in the above-identified application for letters patent hereby appoints:

Mark A. Haynes	30,846
Ernest J. Beffel, Jr.	43,489

to prosecute this application and transact all business in the United States Patent and Trademark Office in connection therewith and hereby revokes all prior powers of attorney; said appointment to be to the exclusion of the inventors and the inventors' attorneys in accordance with the provisions of 37 C.F.R. § 3.71.

The following evidentiary documents establish a chain of title from the original owner to the Assignee:

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X a copy of an Assignment attached hereto, which Assignment has been (or is herewith) forwarded to the Patent and Trademark Office for recording; or

___ the Assignment recorded on _____ at reel ___, frames ___ - ___.

Pursuant to 37 C.F.R. § 3.73(b) the undersigned Assignee hereby states that evidentiary documents have been reviewed and hereby certifies that, to the best of ASSIGNEE's knowledge and belief, title is in the identified ASSIGNEE.

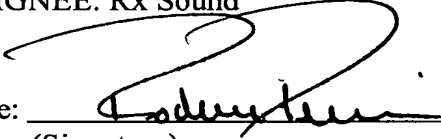
Direct all telephone calls to Mark A. Haynes, (650) 712-0340.

Address all correspondence to:

Mark A. Haynes
HAYNES & BEFFEL LLP
P.O. Box 366
Half Moon Bay, CA 94019

Customer Number: **22470**

ASSIGNEE: Rx Sound

Name: 
(Signature)

Name: Rodney Perkins
(Print or Type)

Title: Chairman and Chief Executive Officer

Date: February 11, 2000

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT CLAIMING SMALL ENTITY STATUS
(37 CFR 1.9(f) & 1.27(c))--SMALL BUSINESS CONCERN

Docket Number (Optional)
RXSD 1000-1

Applicant, Patentee, or Identifier: Vincent Pluvinaige and Rodney Perkins

Application or Patent No.: 09/407,751

Filed or Issued: 28 September 1999

Title: System and Method for Delivering Customized Audio Data

I hereby state that I am

☐ the owner of the small business concern identified below:

☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF SMALL BUSINESS CONCERN Rx Sound

ADDRESS OF SMALL BUSINESS CONCERN 801 Welch Road, Palo Alto, CA 94304

I hereby state that the above identified small business concern qualifies as a small business concern as defined in 13 CFR Part 121 for purposes of paying reduced fees to the United States Patent and Trademark Office. Questions related to size standards for a small business concern may be directed to: Small Business Administration, Size Standards Staff, 409 Third Street, SW, Washington, DC 20416.

I hereby state that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention described in:

☐ the specification filed herewith with title as listed above.

☒ the application identified above.

☐ the patent identified above.

If the rights held by the above identified small business concern are not exclusive, each individual, concern, or organization having rights in the invention must file separate statements as to their status as small entities, and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e).

Each person, concern, or organization having any rights in the invention is listed below:

☒ no such person, concern, or organization exists.

☐ each such person, concern, or organization is listed below.

Separate statements are required from each named person, concern or organization having rights to the invention stating their status as small entities. (37 CFR 1.27)

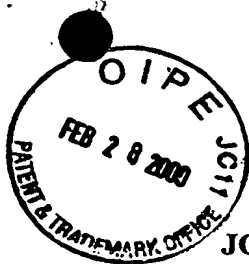
I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

NAME OF PERSON SIGNING Rodney Perkins

TITLE OF PERSON IF OTHER THAN OWNER Chairman and Chief Executive Officer

ADDRESS OF PERSON SIGNING 235 Mountain Wood Lane, Woodside, CA 94062

SIGNATURE *Rodney Perkins* DATE February 11, 2000



COPY

**JOINT TO CORPORATE
ASSIGNMENT**

WHEREAS, the undersigned,

(1) Vincent Pluvinage
49 Spencer Lane
Atherton, CA 94027

(2) Rodney Perkins
235 Mountain Wood Lane
Woodside, CA 94062

hereinafter termed "Inventors", have invented certain new and useful improvements in

SYSTEM AND METHOD FOR DELIVERING CUSTOMIZED AUDIO DATA

and have filed an application for a United States patent disclosing and identifying the above invention, filed 28 September 1999 as Application No. 09/407,751 (hereinafter termed "application"); OR are filing an such application herewith, and have executed an oath or declaration of inventorship for such application on: (1) the _____ day of _____, 1999 and (2) the _____ day of _____, 1999; (hereinafter termed "application"); and

WHEREAS, **Rx Sound**, a corporation of **California**, having a place of business at 801 Welch Road, Palo Alto, CA 94304 (hereinafter termed "Assignee"), is desirous of acquiring the entire right, title and interest in and to said application and the invention disclosed therein, and in and to all embodiments of the invention, heretofore conceived, made or discovered jointly or severally by said Inventors (all collectively hereinafter termed "said invention"), and in and to any and all patents, inventor's certificates and other forms of protection (hereinafter termed "patents") thereon granted in the United States and foreign countries.

NOW, THEREFORE, in consideration of good and valuable consideration acknowledged by said Inventors to have been received in full from said Assignee:

1. Said Inventors do hereby sell, assign, transfer and convey unto said Assignee the entire right, title and interest (a) in and to said application and said invention; (b) in and to all rights to apply for foreign patents on said invention pursuant to the International Convention for the Protection of Industrial Property or otherwise; (c) in and to any and all applications filed and any and all patents granted on said invention in the United States or any foreign country, including each and every application filed and each and every patent granted on any application which is a divisional, substitution, continuation, or continuation-in-part of any of said applications; and (d) in and to each and every reissue or extensions of any of said patents.

2. Said Inventors hereby jointly and severally covenant and agree to cooperate with said Assignee to enable said Assignee to enjoy to the fullest extent the right, title and interest herein conveyed in the United States and foreign countries. Such cooperation by said Inventors shall include prompt

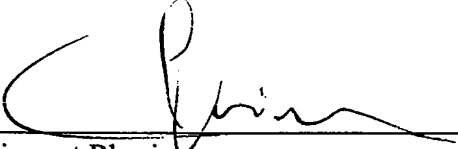
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production of pertinent facts and documents, giving of testimony, execution of petitions, oaths, specifications, declarations or other papers, and other assistance all to the extent deemed necessary or desirable by said Assignee (a) for perfecting in said Assignee the right, title and interest herein conveyed; (b) for prosecuting any of said applications; (c) for filing and prosecuting substitute, divisional, continuing or additional applications covering said invention; (d) for filing and prosecuting applications for reissuance of any said patents; (e) for interference or other priority proceedings involving said invention; and (f) for legal proceedings involving said invention and any applications therefor and any patents granted thereon, including without limitation reissues and reexaminations, opposition proceedings, cancellation proceedings, priority contests, public use proceedings, infringement actions and court actions; provided, however, that the expense incurred by said Inventors in providing such cooperation shall be paid for by said Assignee.

3. The terms and covenants of this assignment shall inure to the benefit of said Assignee, its successors, assigns and other legal representatives, and shall be binding upon said Inventors, their respective heirs, legal representatives and assigns.

4. Said Inventors hereby jointly and severally warrant and represent that they have not entered and will not enter into any assignment, contract, or understanding in conflict herewith.

IN WITNESS WHEREOF, said Inventors have executed and delivered this instrument to said Assignee as of the dates written below.



Vincent Pluvillage

February 11, 2000

Date

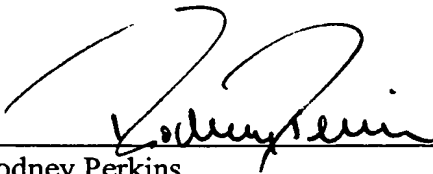
State of _____)
County of _____)

On _____, 1999, before me, _____,
personally appeared _____,
☐ personally known to me or ☐ proved to me on the basis of
satisfactory evidence, to be the person whose name is subscribed to
the within instrument and acknowledged to me that he/she executed
the same in his/her authorized capacity, and that by his/her
signature on the instrument the person or the entity upon behalf of
which the person acted, executed the instrument.

WITNESS my hand and official seal.

(Notary Public)

RXSD 1000-1



Rodney Perkins

February 11, 2000
Date

State of _____)
County of _____)

On _____, 1999, before me, _____,
personally appeared _____,

☐ personally known to me or ☐ proved to me on the basis of
satisfactory evidence, to be the person whose name is subscribed to
the within instrument and acknowledged to me that he/she executed
the same in his/her authorized capacity, and that by his/her
signature on the instrument the person or the entity upon behalf of
which the person acted, executed the instrument.

WITNESS my hand and official seal.

(Notary Public)